

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----	X	
	:	
NML CAPITAL, LTD.,	:	
	:	08 Civ. 2541 (TPG)
Plaintiff,	:	
	:	
- against -	:	
	:	
THE REPUBLIC OF ARGENTINA,	:	
	:	
Defendant.	:	
-----	X	

**RESPONSE OF THE REPUBLIC OF ARGENTINA TO PLAINTIFF'S  
MOTION FOR SUMMARY JUDGMENT AND RESERVATION OF  
RIGHTS CONCERNING INSUFFICIENT DOCUMENTARY EVIDENCE**

On February 22, 2007 the Court signed a memorandum (the "Memorandum") setting a streamlined summary judgment procedure for the bondholder actions filed against the Republic of Argentina (the "Republic"). Pursuant to paragraph 5 of the Memorandum, "the Republic need not object to proof the Republic considers insufficient, but which the Court has previously accepted as adequate. In such a situation, the Republic's non-objection does not act as a waiver of the issue and the Republic preserves such issue for all purposes, including appeal."

Plaintiff NML Capital, Ltd. ("NML") has a total of nine actions pending against the Republic.<sup>1</sup> The Court has granted NML's motions for summary judgment in NML I and

---


<sup>1</sup> NML's other actions against the Republic are NML Capital, Ltd. v. Republic of Argentina, 03 Civ. 8845 (TPG) ("NML I"), NML Capital, Ltd. v. Republic of Argentina, 05 Civ. 2434 (TPG) ("NML II"), NML Capital, Ltd. v. Republic of Argentina, 06 Civ. 6466 (TPG) ("NML III"), NML Capital, Ltd. v. Republic of Argentina, 07 Civ. 1910 ("NML IV") and NML Capital, Ltd. v. Republic of Argentina, 07 Civ. 2690 (TPG) ("NML V"); NML Capital, Ltd. v. Republic of Argentina, 07 Civ. 6563 (TPG) ("NML VI"); NML Capital, Ltd. v. Republic of Argentina, 08 Civ. 3302 ("NML VIII"); NML Capital, Ltd. v. Republic of Argentina, 08 Civ. 6978 ("NML IX").

NML II, on the basis of evidence the sufficiency of which was objected to by the Republic.<sup>2</sup> The evidence on the present motion is similar in kind to the previously submitted evidence. Here, NML seeks recovery for \$16,719,628.00 in principal amount of Republic bonds, plus interest, on the basis of a single sheet of paper purportedly “showing NML’s current ownership of \$38,175,628.00 principal amount of the 2018 Bonds [*i.e.*, the \$16,719,628.00 at issue in this action plus the \$21,456,000.00 at issue in NML IV].” Decl. of Elliot Greenberg, dated July 23, 2008 ¶6; *id.* Ex. 2 (Global Settled Holdings COB Report, dated July 23, 2008). NML has improperly redacted purchase price information from the proof offered in support of the motion, and has not provided the Republic with any other discovery.

Accordingly, the Republic reserves its rights and preserves for appeal all objections to the deficiencies in NML’s proof, including that NML seeks a multi-million dollar judgment based on improperly authenticated hearsay that does not properly establish current ownership of the bonds in the principal amount alleged by NML.

Dated: New York, New York  
August 26, 2008

CLEARY GOTTlieb STEEN & HAMILTON LLP

By:   
Jonathan I. Blackman (jblackman@cgsh.com)  
Carmine D. Boccuzzi (cboccuzzi@cgsh.com)

One Liberty Plaza  
New York, New York 10006  
(212) 225-2000

Attorneys for the Republic of Argentina

<sup>2</sup> The Republic filed a Reservation of Rights Concerning Insufficient Documentary Evidence in NML III, NML IV, NML V and NML VI. The Court subsequently granted summary judgment to plaintiffs in those actions. Plaintiffs’ Motion for Partial Summary Judgment as to Amount of Interest Owed on the FRANs and for Entry of Judgments, which the Republic has opposed, is currently pending before the Court.